IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7533 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE KUNDAN SINGH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

PAURIN JAYANTILAL MODI

Versus

STATE OF GUJARAT

Appearance:

MR KR RAVAL for Petitioner No. 1
MR IM PANDYA AGP for Respondent No. 1
MR MB GANDHI for Respondent No. 2

CORAM : MR.JUSTICE KUNDAN SINGH

Date of decision: 10/10/2001

ORAL JUDGEMENT

This petition was admitted only on the question

of quantum of interim maintenance granted by the trial Court.

2. Heard the learned counsel for the parties. It appears from the judgment of the trial Court that the trial Court came to a conclusion that after deductions, the income of the petitioner - husband comes to Rs.48,000/- to Rs.50,000/- p.a. meaning thereby that the monthly income of the petitioner would come approximately to Rs.5000/- p.m. though there is another observation in the judgment that looking to all the facts and circumstances of the case the income of the husband can be calculated to the extent of Rs.8000/- to Rs.9000/p.m. considering the petitioner's gross salary and out of the said amount, the respondent - wife can be granted Rs.2000/- p.m., whereas Rs.1000/- p.m. can be granted to her child. Learned counsel for the petitioner pointed out that the petitioner has liability of his parents and that aspect has not been considered by the trial Court at all. The fact is admitted by the learned counsel for the respondent that the petitioner has another brother and the parents of the petitioner are not residing with the petitioner. But it is not denied that the parents of the petitioner are not in existence at this time.

3. Considering the facts and circumstances of the case and submissions made by the learned counsel for the parties as well as the material on record, I find that the income of the petitioner is of Rs.5,400/- p.m and if the same amount is divided by 5 then the amount would come to Rs.1280/-. As such, the respondent - wife and her child are entitled to Rs. 2,450/- p.m. (Rupees two thousand four hundred fifty only).

4. Accordingly, this petition is allowed in part and the order dated 19-4-2001 passed by Court No. 4, Family Court, Ahmedabad is modified to the extent that the respondent wife and her child shall get Rs.2,450/- p.m. towards maintenance for herself and her child from the petitioner - husband. Rule is made absolute to the aforesaid extent, with no order as to costs. Interim relief, if any, stand vacated.

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/JVSatwara/